

MEMORANDUM FOR: Deputy Director of Central Intelligence

FROM: Frederick P. Hitz
Legislative Counsel

SUBJECT: Justice Department Senate Report Language

1. Action Requested: That you place a telephone call to Attorney General Griffin Bell in order to discuss with him steps which may be taken to ameliorate the effect of certain language contained in the Senate Appropriations Committee report on the Justice Department Appropriations bill, H. R. 12934.

2. Background: In its report language (pertinent page at Attachment A) the Senate Committee has directed the Immigration and Naturalization Service (INS) to "deny entry and enforce expulsions of hostile intelligence service personnel irrespective of visas issued by, or policies of, the Department of State." In brief, the problems which such a provision poses for this Agency are as follows:

--The Soviet Union and its Warsaw Pact allies can be expected to retaliate in kind, on a one-for-one basis, for any expulsions which occur. They may also be expected to respond in a similar fashion to any denials of visas brought about by the above-cited provision.

--In order to replace those officers expelled or denied entry visas the Soviet Bloc can be expected to increasingly utilize illegals (NOC) and, in the case of diplomatic cover slots, relatively or completely "clean" intelligence officers.

The effect of the above would, in both cases, be inimical to United States interests as follows:

--Expulsion of CIA personnel from the Soviet Union and Bloc nations would result in a drastic reduction if not the complete annihilation of our human intelligence collection capabilities in the Bloc. The effect on the Soviets would be predictably less as their current intelligence officer strength in the U.S. is significantly higher than is ours within the Soviet Union and Bloc countries.

--The use of illegals and "clean" officers by our adversaries would, rather than serve the clear intent of the bill of making the job of the FBI easier, create a situation where it would be

Not approval overtaken by events

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(Sharon)
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more difficult for our internal security service to detect who is and who is not an intelligence officer. Attachment B further expands on the above outlined matters.

3. Other Department Positions: The office of the Attorney General has specifically instructed his staff that the language is highly objectionable and should, one way or another, be nullified. Justice believes that not only does this provision remove the heretofore discretionary authority of the Attorney General in such matters, but it moreover is not in the nation's interest nor ability to carry out widespread indiscriminate denials of visas and expulsions. State Department, of course, is seriously offended by the fact that the language calls upon the Immigration and Naturalization Service (INS) to carry out the mandate "irrespective of visas issued by, or policies of, the Department of State." State also believes that, much like CIA, expulsion from and denial of entry to the United States for members of "hostile intelligence services" would adversely impact, albeit derivatively, on legitimate State Department officers serving overseas.

4. CIA Actions: The office of Legislative Counsel has thus far met, or spoken with, representatives of the Departments of Justice and State. On 7 August a representative of the Legislative Counsel accompanied by a senior DDO official met, along with two Justice representatives, with two senior Senate Committee staffers and one from the House Committee. As Justice had previously expressed their concerns over the objectionable language the meeting was primarily concerned with CIA's predictable problems should the provision be enforced by the INS. We additionally informed the Congressional staffers of the fact that we were trying to deal effectively with this issue under Title IV of the Intelligence Authorization bill, H. R. 12240. The letter sent by Admiral Turner (Attachment C) was shown to the staffers.

At that time and subsequently the staffers informed us that the intent of Senator Ernest F. Hollings (D., S. Car.), the provision's principal supporter, was not to damage the effectiveness of the Intelligence Community. They assured us as well that the language would not be included in the upcoming Conference report; particularly since the House report does not contain similar language.

5. Staff Position: Notwithstanding the aforementioned assurances, both Justice and this Agency's Legislative Counsel remain concerned over the possible effect of the language. It is our belief that it would be most helpful to have further assurances from Senator Hollings that it is not the Committee's intent to remove, by virtue of the report language, other agencies of the Federal Government, besides Justice, from the decision-making process in such important matters. As the troublesome language cannot now be deleted from the Senate report it would also be helpful if Senator Hollings would agree that something less than total fulfillment of the mandate will not result in Congressional accusations of misfeasance on the part of the Attorney General at next year's appropriations hearings.

6. Recommendation: The Office of Legislative Counsel recommends that you call Attorney General Bell and discuss with him the above cited matters (Attachment B expands on our problems). The goal will be to determine who would be in the best position to telephone Senator Hollings in order to receive his personal assurances that he will not press his report language to the point that the Attorney General's hands are tied and our operations possibly irreparably damaged.

Although Justice staffers advise that a call from you to the Senator might be more effective as the primary problems with the report language are international vice domestic in nature, it is this office's position that the Attorney General is the most appropriate official to place the call. This is so, notwithstanding the fact that the most probable repercussions of the mandate affect this Agency, because the language is a directive aimed specifically at the Attorney General, with this Agency and State receiving the fall-out. Your call to the Attorney General would therefore not only enable him to raise with the Senator his Department's problems but also those of the Intelligence Community.

FIGURE 1

Frederick P. Hitz
Legislative Counsel

Attachment

APPROVED:

Deputy Director of Central Intelligence

DISAPPROVED:

Deputy Director of Central Intelligence

DATE: .